1: Berque--473 Z-5 (ca.1950) 1955 MW11 Shluh MW11

/336 cont./

212 794 693 is uncultivated, keeps his head bare, wears only one shirt, lets his wives devote themselves to tasks more or less decent; the Malékite /Maliki/ utilitarianism tolerates him all the same, because, without him, the village would no longer pray and would no longer enter into contracts.

These different traits will complete the encompassing of two essential motifs of the Seksawa, indeed Chleuh /Shluh/ in a larger sense, procedure: the writing and the oath, with their municipal atmosphere. At the same stroke, the beginning of historical precision, in a matter which is ordinarily so deprived of it, comes to cast some light on the relations of juridical modes, whose articulation in time one thus begins to perceive. Although narrowly limited to the field of this study, such elements merit for the ensemble of Morocco the very thing being conferred on the Moroccan South, as producer of juridical forms, an unexpected primacy.

/337/

II. Familial Law

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Agnatic Family or Conjugal Family (1)

1. This problem is absolutely central in our investigation. Hence it can be treated only gradually in the development of the account. The notion of the agnatic group as the basis of Berbère /Berber/ society long ago passed the boundaries of the monograph. It goes back to very old observations, notably made apropos the cut-up habitat, or quarter, and such as are found, for example, in the Voyages d'Ali bey /The Travels of Ali Bey/, 1814, t. I, pp. 90, 217. Masqueray, Formation des cités chez les populations sédentaires de l'Algérie /Formation of cities among the sedentary populations of Algeria/, 1886, draws some valuable analyses from it. Ali

1: Berque--474 Z-5 (ca.1950) 1955 MW11 Shluh MW11

/337 cont./

• 594
171
114

/footnote 1 continued/ the literature of the "bureau arabe" /Arab office/, Daumas, Villot, Richard, etc., had insisted upon the "patriarchal" side of Maghrebi life. These views are systematized by M. Morand, Etudes de droit musulman algérien /Studies on Algerian Mussulman law/, 1910, pp. 10 sq., and A. Bernard and Lacroix, L'évolution du nomadisme en Algérie /The Evolution of nomadism in Algeria/, 1906, in their very rich chapter IX on the social life, pp. 271 sq. They give an account there of the profound study by E. Doutté, "L'organisation domestique et sociale chez les H'âh'a /The domestic and social organization among the H'âh'a/," Rens. col., Jan., 1905, which approaches our sector, pp. 8 sq. Observations by W. Marçais in a domain more distant, but valuable for the North Africa ensemble, Textes arabes de Takrouna /Arab texts from Takrouna/, 1925, pp. xi sq.; good bibliography by A. Mouliéras on the ᶜazwa of the Jebala, Le Maroc inconnu /Unknown Morocco/, 1895, t. I, p. 66; by H. Bruno on the ᶜaz'âm, "Introduction à l'étude du droit coutumier des berbères du Maroc Central /Introduction to the study of the customary law of the Berbers of Central Morocco/," Arch. berb., 1918, p. 306. In this context of observations, R. Maunier does not hesitate to approximate the Kabyle takharrubt to the Roman gens, Mélanges de sociologie nord-africaine /Miscellaneous works of North African sociology/, 1930, p. 64, and describes a "segmentary" society. These ideas have been very widespread. Vidal de Lablache himself, Principes de Géographie humaine /Principles of human geography/, 1922, p. 291, compares Berbère /Berber/ society to an ensemble of Hellenic

/337 cont./

594
171
114

/footnote 1 continued/ cantons that did not bring about their "synoecism." To return to concrete observations, a thorough study of the ikhs in Morocco was undertaken by R. Montagne in a series of works published in Hesp. beginning in 1924, and also Les Berbères et le Makhzen dans le S. du Maroc /The Berbers and the Makhzan in the South of Morocco/, 1930, pp. 43 sq., 218. R. Montagne consequently will affirm the importance of the patriarchal family, for example, very recently, in Naissance du Prolétariat marocain /Birth of the Moroccan proletariat/, 1950, pp. 21 sq. G. Marcy, Le droit coutumier Zemmour /The Zemmour customary law/, 1949, pp. 1 sq., insists on the importance of the agnatic group, although he has posed the conjugal family as "elementary cell." He had already expressed this idea, especially in "L'alliance par colactation /Alliance by colactation/," II^{e} Congrès de la Fédération des Sociétés savantes/, 1936.

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Let us suppose that groups, inversely to the exigencies of an individualist logic, were determined from the more to the less extensive rather than by an amplification that began with the individual. This idea of Durkheim's has a chance of being verified historically by the Berbères /Berbers/, whose present fragmentation could have been preceded by vast conjunctions. The study of the great ensembles of the medieval Maghreb, then that of the leagues of the recent past, then of the confederations, /338/ tribes, cantons, would bring to that of the agnatic family (1)

1. Cf., on the "undivided agnatic family," the ideas of G. Davy, Sociologues d'hier et d'aujourd'hui /Sociologists of yesterday and today/, 1950, 2nd edit., pp. 109 sq. The slightly

/338 cont./

121
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• 594

/footnote 1 continued/ different term that we employ seems to us to correspond better to the reality described. Its definition is no less opposed, in the fashion indicated by G. Davy, to the patriarchal family.

and, in second place, of the conjugal family more and more precise foundations and a progressively lighted background.

The familial life is par excellence the meeting place for the most diverse orders of facts: magic, folklore, mode, positive right, morality, religion. The demarcation between them is
594 tenuous. Which of them to choose as the most revealing? Now,
613 for the Seksawa it is the familial law that refers most to Mussul-
183 man ethics. It wants to recognize only the individual person and refer in everything to the norms of the fiqh. Truthfully speaking, it is a matter of a theoretical profession rather than of a real practice. An ideal result, if one wishes, but one that this society intends for itself. A point of arrival also, if one bears in mind that the constructions of the past disclose, to the extent that one can investigate them, something quite different. But when to date the change? And was there change for an appreciable period?

The first approach of our inquiry gave on that, and precisely
594 in what concerns the mountain societies, results of a nature to in-
613 spire prudence. The habitat, the style of life, and even the food appeared to us as clearly divided on the echelon of the conjugal family. Let us then be led by the observable actuality to an initial approximation of the fleeting social reality that forms the subject of this chapter. Like the usager, one will concentrate one's attention on the conjugal family, takat, genealogically linked to the common ancestor of all the other families of the ikhs. Let us define the latter as a "differentiated agnatic family," ending in the individual — man or woman — as subject of rights.
613 The ikhs itself is suppressed in the shadows, along with the other bases of all that has not become an institution approved by the commune and subjected to the stamp of the written word. But it sometimes also crops out on the plane of the judicial dispute. On

613 /350/ The following paragraph is in small type in the original source./ Here is an act of 1168 Heg.: 1755. It concerns
175 the jemâa of Ad'erdur (Idma). It specifies the ikhs of each of the
[623] personages mentioned: A. Abbû, a. Ikru, a. Ighechchi (today: a. Dris), a. Arbâi (today Ichâwiyin), Azarra (disappeared), a.
613 Bjikko (disappeared), a. Bajja. That is, 8 ikhs-s as opposed to
178 only 6 today, among which one finds the a. Ikru, a. Uchâwi, a. Dris, a. Bakkin. Two have disappeared. Others have dissolved and are no longer counted as ikhs-s. The laws of these evolutions would merit a monographic analysis, which cannot be undertaken here. Roughly, these ikhs-s, each of which furnished an assistant for the chief of the village, are still the same as in our day. Examples of such permanence, unheard of with regard to the incertitudes of the Morocco of the plains, would be indefinitely renewable.

594 It is true that there we are fully in public law. The atmos-
671 phere is quite different as soon as one passes to acts concerning the conjugal family: and the latter is alone to appear here either at the moment of its constitution by marriage or on the occasion of all the acts implying its exercise or its perpetuation.

597 "Adoption," assyas, tabannî, constitutes a first divergence
671 with the orthodox system. One thus sees crop up on the plane of
[174] sworn law a form that elsewhere in North Africa has remained on that of suppletory custom (1).

1. Cf. G.-H. Bousquet and R.-P. Demeerseman, "L'adoption dans la famille tunisienne /Adoption in the Tunisian family/," R. afr., 1937.

It is nevertheless rare in Seksawa, and these lateral modes of augmentation of the family are far from assuming there the same importance as elsewhere. The strict adaptation to the fiqh has eliminated here the interferences between the pacts of work or of alliance and filiation, so characteristic of the Moyen /Middle/ Atlas. An effect, let us say, of "acculturation." The Seksawa system diverges from the fiqh on another point. One knows that in the latter representation does not exist. Trace perhaps of an

4: Hoffman E-4 (no date) 1967 MW11 Shluh MW11 (ca. 1900)

A. BASIC TRADITIONAL UNITS OF ORGANIZATION

The fundamental units of rural social organization are based, first of all, upon blood relationship in the male line and descent from a common ancestor, and, second, upon geographical proximity. Seven distinct types of units commonly occur, and some groups have as many as nine (see Tables II, III, and IV).

1. *Berbers*

a. *Nuclear Family*

The simplest social unit of Berber society is the nuclear family, established by a monogamous union, and consisting of a husband and wife, and their unmarried children. This unit is known as a *taka*, *takat*, or *kanoun* (Arabic) (all forms meaning "hearth") among the Shluh (Berque, 1955, pp. 37-38; Doutte, 1905); as a *kanoun* among the Beraber, and probably also among the Zenata (Querleux, 1915, p. 21; the native terms here have not been found); and as a *nubth* (pl., *nubath*) or "turn" among the Riffians (Johns Hopkins University, 1956, p. 143). This unit is of only minor importance, its main function as a unit resting only in the annual payment of the *tertib* (tax), this being usually collected from each *hauma* or "barrio" of the village on the basis of payments by each biological family (Deverdun, 1942, p. 303; Johns Hopkins University, 1956, p. 143).

b. *Patrilineal Extended Family*

The importance of the nuclear family is overshaded by that of the second social unit in Berber society – the patrilineal extended family. This unit is made up of a number of nuclear families whose heads are united by descent from a common ancestor no more than three or four generations removed, whose name it carries. If this common ancestor is still living he heads the extended family and represents it on social and public occasions; if not his place is taken by his eldest brother. If this brother dies the extended family splits up into units under each of the other brothers. Thus, the extended family usually consists of a man and his wife, their married sons

[TEXT CONTINUED ON PAGE 47]

TABLE II

Basic Units of Social Traditional Organization Among the Berber-speakers of Morocco

Social Units	Berber Ethnic Groups			
	Shluh	Beraber	Riffian	Zenata
Nuclear Family	*Taka, takat, kanoun* ("hearth")	*kanoun* ("hearth")	*nubth* ("turn")	
Patrilineal Extended Family	*tigemmi, adouar*	*adham* ("bone"), *rif* ("edge")	*azwar* ("vein" or "penis"), *sajghu, jū*	*tighssat*
Minor Lineage (constituting either a village or a village segment)	*ikhs* ("bone"), *afus* ("hand")	*asoun, tigemmi* or *adouar, tighst*	*ikhs* ("bone"), *tarfiqth*	*ikhs* ("bone")
Major Lineage or Commune (usually constituted of both related and unrelated lineages)	*mouda* ("village, place")	*ikhs* ("bone"), *fakhda*	*arrba* ("fourth"), *fariqath*	*lferqa*
District	*taqbilt* ("district") *khums* ("fifth")	*khums* ("fifth")	*rebaa* ("fourth"), *khums* / *thakhammasth* } ("fifth")	*rebaa* ("fourth")
Tribe	*taqbilt*	*taqbilt, qabila*	*zakoir, thakabitch, qabila*	*taqbilt*
Confederation	(no name)	(no name)	(no name)	*idrasen*

4: Hoffman E-4 (no date) 1967 MW11 Shluh MW11 (ca. 1900)
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